REMARKS

The present response traverses the rejections noted in the Final Office Action.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's allowance of claims 3-9 and 32-34 and indication of allowable subject matter in claims 25, 26, 29, 30, 36, 37, 40 and 42[1].

Summary of the Response

Claims 1, 2, 35 and 42 have been amended. Claims 10-23 and 36 have been canceled. Claims 1-9 and 24-35 and 37-42 remain pending in this application. Reexamination and reconsideration of the present application as amended are respectfully requested.

Summary of the Rejections

Claims 1, 2, 24, 27, 28, 31, 35, 38, 39 and 41 have been rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,986,729 to Yamanaka. This rejection is respectfully traversed in view of the amendments and arguments below.

[1] In a telephone discussion with the Examiner on November 2, 2006, the Examiner indicated that the indication of allowable subject matter in claim 41 was in error, and instead claim 42 contains allowable subject matter. Further, the Examiner indicated that claim 41 should have been rejected along with the other claims. Given that Applicant believes the present amendments will place all the claims in allowance, Applicant is not currently contesting the new issue raised by such error and possible prejudice to Applicant caused by such error. Applicant reserves the right to raise this issue in the event of an appeal. Applicant proceeds with the present response with the claims status represented by the Examiner in the recent telephone discussion.

Double Patenting

Given that the Examiner did not raise the previous double patenting rejection, Applicant can only proceed on the basis that such rejection has been withdrawn. Should the Examiner raise this rejection again as a new issue, Applicant should be entitled an opportunity to fully respond to such rejection. Applicant should not be prejudiced and burdened with continuing prosecution given the Examiner's failure to set forth all basis of rejection in the present action.

Premature Final Action

Applicant respectfully submits that the finality of the present action is premature.

a. New Ground of Rejection Not Necessitated by Applicant's Earlier Amendments

The Examiner indicated that Applicant's previous amendment necessitated the new ground(s) of rejection presented in this Office Action. Such is clearly completely at odds with the factual circumstance.

In the previous Office Action, the Examiner rejected claims 1-4 and 6-9 as being obvious over Yamanaka under 35 USC 103(a). There was no other rejection. In response, Applicant did not amend independent claims 1 and 2, but presented arguments that overcame the obviousness rejections of claims 1 and 2. In the present action, the Examiner allowed claims 3-9, but rejected claims 1 and 2 based on a completely new ground of rejection, namely under 102(b) anticipation by the same reference Yamanaka. Applicant respectfully requests the Examiner to explain how the Applicant's absence of amendment of independent claims 1 and 2 now raised new issues necessitated by Applicant's amendments! If the Examiner cannot explain this, the Examiner

should withdraw the finality of the present action. Any action short of this would create undue prejudice and burden on the Applicant to undertake unnecessary continued prosecution of the present case.

b. Incomplete Basis of Rejection

The Examiner has the obligation to clearly and completely set forth the basis of rejection of the relevant claims. However, the Examiner clearly failed to meet this obligation. In one sweeping, broad basis under 35 USC 102(b), the Examiner rejected claims 1, 2, 24, 27, 28, 31, 35, 38, 39 and 42 as being anticipated by Yamanaka. The Examiner merely stated in the present action that:

"The above claims are anticipated by Yamanaka et al figure 4 which discloses a reflection type liquid crystal display (LCD) device comprising:

a first substrate (1);

a second substrate (2);

a reflective layer (9);

a first electrode (12);

a second electrode (13);

a third electrode (17);

wherein a first set of electrode (e.g. 12 and 17) and a second set (e.g. 13 and 17) are activated optionally to create images."

There is no further explanation of the basis of rejection of the claims.

Such basis of rejection is incomplete. The Examiner failed to address each and for example, previously presented claim 24 recites: "a liquid crystal layer, wherein the first set of

electrode layers comprises a first pair of electrodes operating on the liquid crystal layer, wherein the second set of electrode layers comprises a second pair of electrodes operating on the same liquid crystal layer, and wherein the first pair of the electrodes or the second pair of electrodes are selectively operated to create images with the same liquid crystal layer".

Claim 28 recites similar structure. The Examiner likewise did not comment on such structure.

Further, claim 35 recites: "the first and second electrode selectively operate with the third electrode, to create images with the same liquid crystal layer". The Examiner has not pointed out any corresponding structure disclosed in Yamanaka. In fact, Yamanaka does not disclose multiple sets of electrodes that operate on a same liquid crystal layer. Yamanaka is directed to a "subtractive color mixing" type of liquid crystal panel. Specifically it discloses a liquid crystal layer structure that comprises stacked "microcapsules", each of which comprises a liquid crystal layer sandwiched between a pair of electrodes. Each liquid crystal layer is independently operatively controlled by its corresponding electrode (e.g., 12 and 13), as can be evident by the individual TFT's 15 and 16, which separately control the electrodes 12 and 13, respectively, to separately control the liquid crystal layers 19 and 20, respectively.

Claim 42 specifically recites active matrix mode and passive matrix mode. The Examiner did not point to the corresponding structure in Yamanaka.

Claim Rejection Under 35 USC 102(b) Based on Yamanaka

It appears that the Examiner does appreciate some of the deficiencies of Yamanaka. Yamanaka is not directed to a liquid crystal panel that provides for both active matrix and passive matrix modes. It is clear that the Examiner found Yamanaka to be silent on switching

between active matrix mode and passive matrix mode, as the Examiner noted that Applicant did not recite such distinction in claims 1 and 2 even though Applicant argued such distinction. However, as noted above, the Examiner appeared to not appreciate other deficiencies in Yamanaka.

While Applicant disagrees with the Examiner's rejection of claims 1 and 2, in the interest of forwarding the present application to early allowance, Applicant amended claims 1 and 2 to recite a TFT operatively coupled to only one of the two sets of electrode layers to correspond to an active mode. Applicant submits that claims 1 and 2 as amended are clearly not anticipated by Yamanaka at least because of the absence of TFT active mode and no TFT passive mode in Yamanaka.

While Applicant disagrees with the rejection of claim 35, Applicant amended independent claim 35 to include the allowable subject matter of claim 36. Claim 35 as amended is now allowable.

Further Applicant rewrote claim 42 to include the limitations of claim 35, which should be patentable as indicated by the Examiner.

All the other claims dependent from claims 1, 2 and 35 are now likewise patentable.

Entry of Present Amendments

Applicant respectfully submits that amendments presented in this response should be entered as a matter of right. As noted above, the finality of the present action is premature. Further, even if the finality is proper, no new issue has been raised and no new prior art search is required. The Examiner is obligated to conduct a prior art search to include a scope that can be reasonably claimed by the Applicant. Here, claims 1 and 2 have been amended to refer to TFT

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corresponding to active matrix mode and no TFT corresponding to passive matrix modes, which actually have been recited in previously presented claim 42, which the Examiner should have already searched (but as noted above, the Examiner failed to comment on these claims in the Final Office Action). Still further, the present amendments clearly place the claims in condition for allowance, or at least in better form for appeal.

CONCLUSION

In view of all the foregoing, Applicant submits that the claims pending in this application are patentable over the references of record and are in condition for allowance. Such action at an early date is earnestly solicited. **The Examiner is invited to call the undersigned representative to discuss any outstanding issues that may not have been adequately addressed in this response.**

Respectfully submitted,

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Wen Liu
Registration No. 32,822

LIU & LIU
444 S. Flower Street; Suite 1750
Los Angeles, California 90071
Telephone: (213) 830-5743
Facsimile: (213) 830-5741
Email: wliu@liulaw.com